THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

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WRIT PETITION NO : 9219 of 1996

16-11-2005

Between:

Karampotti Dora, S/o. Subbanna Dora.
Rajupeta Loddi Village, Gangavaram, East Godavari.

..... PETITIONER

AND

1 Vangapandu Venkatarao, S/o. Suryarao.
Kothapalli, East Godavari. And others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 9219 of 1996

O R D E R:

The Special Deputy Tahsildar, Tribal Welfare, Pedathamamidi filed an application under Section 3 of the Andhra Pradesh (Scheduled areas) and Transfer Regulation 1 of 1959 as amended by Land Transfer Regulation1 of 1970 on behalf of Karam Potti Dora (petitioner) for restoration of Ac.9.87 cents in S.No.85/1 and 85/2 of Rajupeta loddi village, Gangavaram Mandal, East Godavari District, on the ground

that it is in possession of a non-tribal Vangapandu Appayamma, mother of the 1st respondent in this petition, before the Deputy Collector Tribal Welfare, East Godavari District whereupon a notice was issued to the concerned parties. In these proceedings, Miriyala Kannaiah (husband of the 2nd respondent) was subsequently added as a party to the proceedings on the ground that he purchased the land in question from the father of the petitioner and his paternal uncle under a registered sale deed dated 06-04-1948 for Rs.1,000/- and is cultivating a part of it and leased out the remaining portion to Vangapandu Appayamma. After enquiry, the Deputy Tahsildar, Tribal Welfare while directing eviction of Vangapandu Appayamma, a non-tribal from the land in her possession, directed its restoration to Miriyala Kannaiah husband of the 2nd respondent from whom she obtained the transfer and further directed the Special Deputy Tahsildar, Tribal Welfare Addatigala to put the said property in possession of the petitioner. Questioning the said order, Kannaiah Dora preferred CMA No.36/77 to Agent to the Government, (Collector, Kakinada East Godavari District) who by his order dated 28-07-1977 remanded the case to the Deputy Collector, Tribal Welfare to decide the question whether the property should be restored to Miriyala Kannaiah Dora or to Karam Potti Dora. After remand, the Deputy Collector, Tribal Welfare through his revised order dated 23-08-1984 directed restoration of possession of the land to Miriyala Kannaiah Dora. Alleging that after remand, he was not served with any notice by the Special Deputy Tahsildar Tribal Welfare and that he became aware of the award passed against him only when the revenue officials came to dispossess him from the property petitioner filed CMA No.31 of 1995 before the Agent to the Government Kakinada East Godavari District who by the order impugned in this petition dismissed the same. Hence this writ petition.

The main contention of the learned counsel for the petitioner is that since the petitioner after remand of the case was not served with notice by the Deputy Collector, Tribal Welfare, the order of the Deputy Collector is liable to set aside as the aspect relating to service of notice is not borne in mind by the Agent to the Government, who numbered the appeal.

The contention of the learned Government Pleader is that petitioner in fact was served with notice by the Deputy Collector for many hearings but since he failed to appear in spite of service of notice there are no grounds to interfere with the order

impugned.

On my direction, the learned Government Pleader produced the relevant file, which shows that after the case is remanded to him by the Agent to the Government, the Deputy Collector served notices on all the parties for every hearing. Docket noting on 27-06-1984 reads-"petitioner called absent even though notice served. Respondents are present. RO on 13-07-1984". From 13-07-1984 the case was posted to 27-7-1984. The docket noting on 27-07-1984 reads - "LTRP case belongs to Addatigala Forest. Post on 16-08-1984 at Addateegala issue notice to petitioners." Docket on 16-08-1984 shows that petitioner was recalled and re-examined and after perusal of the records orders were pronounced. The record also shows that on
16-08-1984, petitioner gave his statement. In view thereof, the contention of the petitioner that he was not served with notice before the Deputy Tahsildar after remand has no subsistence.

The record shows that the father and uncle of the petitioner had sold away the land to the husband of the 2nd respondent under a registered sale deed dated 06-04-1948 for Rs.1000/-. Since the 2nd respondent admittedly is a tribal and since the petitioner also is a tribal, Regulations do not come in the way of Transfer between the parties to the above said registered sale deed dated 6-4-1948. In view of the said sale deed, petitioner ceased to have any right in the land in question. If transfer of immovable property is made in contravention of Sub Section (1), the Agent, the Agency Divisional Officer or any other prescribed Officer may on application by any one interested or on information given in writing by a public servant, or suo motu decree ejectment against any person in possession of the property claiming under the transfer, after due notice to him in the manner prescribed. Since the father of the petitioner sold away the land to the husband of the 2nd respondent in 1948 itself, and since even according to the petitioner, the husband of the 2nd respondent inducted Vangapandu Appayamma into possession of the land, order directing restoration of possession, after ejecting the said Appayamma to the husband of the 2nd respondent, but not to the petitioner, who ceased to have a right over the land by virtue of the sale deed executed by his father, cannot be said to be wrong and so I find no merits in the petition. In view thereof, it is not necessary to go into the question whether the agent to the Government was right in dismissing the petition on

the ground of limitation or not.

Hence the petition is dismissed. No costs.

16-11-2005

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